

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

MICHAEL OLENDER, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	CAUSE NO. 3:07-CV-181 PPS
)	
GULF STREAM COACH INC.,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On March 25, 2009, this Court held a telephonic status conference to address Plaintiff's, Michael Olender ("Olender"), *pro se*, alleged failure to comply with discovery and to determine Olender's intention regarding dismissal of this case. The status conference was held upon request of Defendant Gulf Stream Coach Inc. ("Gulf Stream"). At the appointed time, this Court initiated several calls to Olender but was ultimately unsuccessful in securing his telephonic attendance at the status conference. Accordingly, this Court ordered Olender to show cause, by April 27, 2009, why this case should not be dismissed for Olender's failure to prosecute his claim. As of this date, Olender has not responded to this Court's order to show cause, despite this Court's warning pursuant to Timms v. Frank, 953 F.2d 281, 285-86 (7th Cir. 1992) and Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982), that failure to do so may result in a dismissal of his case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for his failure to prosecute his claim or to comply with court orders. Olender has failed to comply with this Court's orders to appear at the status conference or to show cause for failing to appear, and Olender has provided no written documentation explaining his inaction. As such, this Court can only assume

that Olender has abandoned his case. Consequently, for the aforementioned reasons, this Court **RECOMMENDS** that the Olender's case be **DISMISSED WITHOUT PREJUDICE**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed. R. Civ. P. 72(b). **FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.**

SO ORDERED.

Dated this 28th Day of April, 2009.

S/Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge